



November 1, 2024

President Joe Biden
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Biden,

For the past four decades, the National Center for Missing & Exploited Children (NCMEC) has served as the nation's clearinghouse on missing and exploited children issues. As incidents of children being sexually exploited online have increased dramatically, NCMEC's CyberTipline has become the global clearinghouse for reports relating to online child sexual exploitation. In 2023, the CyberTipline received more than 36 million reports, over 91% of which resolved to a location outside the United States. The need for consistent global legal standards on international laws to protect children from online sexual exploitation has never been more urgently needed.

Articles 14-16 of the UN Convention Against Cybercrime present a significant opportunity to establish uniform global measures to protect children around the world from online child sexual exploitation. Given NCMEC's specific child protection mission, we take no position on any portion of the Convention apart from Articles 14-16.

Article 14 – Offences related to online child sexual abuse or child sexual exploitation material

While the United States has long recognized that a child is anyone under the age of 18, many countries have designated younger ages as demarcating children from adults. Excluding children – especially those 15-17 who are most likely to be victims of online enticement and sextortion – from legal protection exacerbates their vulnerability to online offenders. The risk to this age group is significant, as CyberTipline reports relating to online enticement have increased by 300% in just the past two years. Article 14's definition of a child as anyone under the age of 18 will ensure more consistent protection from sexual exploitation. Also important is Article 14's recognition that child sexual exploitation material includes content that depicts a child in the presence of a person engaged in sexual activity. In NCMEC's experience, such imagery frequently is collected and traded among offenders and normalizes the exploitation of children.

Article 15 – Solicitation or grooming for the purpose of committing a sexual offence against a child

Article 15's recognition that grooming a child for sexual exploitation is a crime will significantly increase global efforts to combat online enticement and sextortion. NCMEC strongly supported the recent enactment of the REPORT Act (Pub. L. No. 118-59), which for the first time requires U.S.-based online platforms to report apparent crimes of online enticement to NCMEC's CyberTipline. Creating global standards to criminalize this form of child sexual exploitation will facilitate a more uniform law enforcement response worldwide to online enticement reports that are submitted to the CyberTipline and made available to law enforcement in over 160 countries/territories.

Article 16 – Non-consensual dissemination of intimate images

NCMEC has long advocated for U.S. law to criminalize sexually exploitative images depicting children that do not meet the legal definition of child sexual exploitation material. Though the pending SHIELD Act (S.412/H.R.3686)

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would resolve this gap under U.S. law, global acknowledgement that these images exploit child victims and often lead to more severe forms of exploitation, is essential to protecting children worldwide.

An essential part of NCMEC's policy work is consulting with survivors and those with lived experience relating to child sexual exploitation in order to gain valuable insights regarding proposed legislative changes. As part of its review of Articles 14-16 of the UN Convention, NCMEC discussed these proposals with our survivor consultants and have attached a document outlining their statements of support for the proposals included in these provisions.

The increasing number of children being sexually exploited online around the world and the borderless nature of the internet requires that we work towards global consistency in the laws available to combat these crimes. The measures set forth in Articles 14-16 of the UN Convention will help ensure that the global community can work together to keep children safer online.

Sincerely,

A handwritten signature in black ink that reads "Michelle DeLaune". The script is cursive and fluid, with the first letters of the first and last names being capitalized and prominent.

Michelle DeLaune
President & CEO



SUMMARY OF SURVIVOR/LIVED EXPERIENCE CONSULTANT FEEDBACK REGARDING THE UN CONVENTION AGAINST CYBERCRIME

October 17, 2024

In response to a request from the U.S. Department of Justice to review Articles 14-16 of the UN Convention Against Cybercrime, the National Center for Missing & Exploited Children (NCMEC) consulted survivors and individuals with lived experience relating to online child sexual exploitation, including crimes related to child sexual abuse material (CSAM), online enticement or grooming for sexual purposes, and child sex trafficking. NCMEC sought input from the consultants solely pertaining to Articles 14-16 and did not seek input as to other provisions of the Convention or relating to the consultants' overall views or position on the Convention.

Across two sessions involving a total of 23 consultants, NCMEC presented a verbal and written explanation of each Article, facilitated a discussion to provide clarification and answer questions, and received written feedback. A summary of the written feedback received from consultants in support of certain elements of the relevant Articles is provided below. Comments denoted by quotation marks (“ ”) are direct quotes from consultant feedback. All other comments are NCMEC's paraphrased summaries of feedback provided by consultants.

Regarding the definition of a “child” as someone under 18 years of age (Article 14.2)

- “I think that is VERY important to make a worldwide universal age for a child being under 18. That way, all of the laws that follow will be clear.”
- “This is pivotal to protecting the most vulnerable. I hope the Convention will call for strict guidelines in enforcing this age limit, and include married people under 18 despite their civil status.”
- “I think this a revolutionary (and necessary) change.”
- “It is imperative to have a universal definition of a child to be someone under the age of 18. This is imperative when it comes to the rights of victims regarding consent, distribution of imagery, and statu[t]es of limitations.”

Regarding the definition of “child sexual abuse or child sexual exploitation material” to include material involving a child “[i]n the presence of a person engaging in any sexual activity” (14.2(b))

- Consultants reflected on the harm associated with exposing children to sexual activity, such as the normalization of inappropriate or exploitative sexual conduct as a grooming strategy.
- “I think this is important because, among other things, I was groomed in this way. I think it is definitely a way to groom and abuse children and it is a stepping stone to more dangerous hands on abuse.”
- “[P]lacing a child in the presence of someone engaging in sexual activity must be criminalized.”

- Consultants also compared the harm suffered by children who are exposed to domestic violence (“A child should never be a bystander or onlooker to the sexual activity of others...”)
- “This is an often overlooked but vital aspect of the definition of child sexual abuse. Being forced to witness sexual activity as a child harmed me as much as actual forced participation did.”
- “I fully support broadening the definition of child sexual abuse material (CSAM) as including a child being in the presence of a person engaging in sexual activity. Perpetrators very typically attempt to ‘normalize’ sexual behaviors or actions in the presence of a child and so including this act in the definition of CSAM would be very important to prevent or reduce the opportunities for perpetrators to influence a potential victim.”
- “Many of us who’ve experienced this kind of trauma are bewildered at the fact that this is not already included.”

Regarding the optional inclusion of written or audio content in the definition of “child sexual abuse or child sexual exploitation material” (Article 14.2)

- “I strongly agree with this change. Any depiction of child sexual abuse—written, audio, or pictures—is harmful to children.”
- “I think that written or audio content could be a grooming technique as well.”
- “Child Sexual Abuse Material should include any form of materials that can be consumed by any of the sensory systems....Adults with these types of interests commonly increase the risk of their behaviors over time.”
- “I truly believe the encouragement of these specific[s] to be ingrained in all efforts to all countries. Written and audio content has been exploited already on so many worldwide platforms when it comes to the sexualization of children.”

Regarding the optional exclusion from criminalization of conduct by children for self-generated material depicting them (Article 14.4(a)) or intentional grooming conduct (Article 15.1) committed by children (Article 15.4)

- “I feel that it would be good to exclude (a) because it allows for the child to get help. It will allow providers to dive deeper into why that child is producing the material and help to warn them about what can happen with such images and the damage the images can do in their present and future.”
- “I agree with this change, particularly because, just as with child sex trafficking, children can be forced to participate in their own exploitation by seeming to look as if they are taking the initiative, or exploiting peers.”

Regarding the optional extension of criminalization of conduct described in Article 15.1 in relation to a person believed to be a child (Article 15.3)

- “This is important, because that is how stings work with police officers trying to catch predators online. It will reveal predators who are attempting to groom, take, and abuse actual children. The intent of the abuser is clear.”
- “I do think if an adult is grooming and eliciting sexual favors from an individual that believe to be a child, they should be held accountable in the same regards as if that person were a child. There will be not much left to stop them from grooming and offending on an actual child.”
- “This will be vital in sting operations and I’m all for it. This can save many children from exploitation.”
- “I fully support criminalizing grooming when a person believes or reasonably should have believed that the person they were attempting to groom was under age.”

Regarding the optional inclusion in the definition of “intimate image” certain images of persons under 18 years of age that are not child sexual abuse or child sexual exploitation material (Article 16.3) for purposes of criminalizing nonconsensual dissemination of an intimate image (Article 16.1)

- “[T]he distribution of that image would be greatly damaging to them, so I think that it is important to criminalize it.”
- “I agree with criminalizing this, and I agree with making the distinction between intimate imagery and child sexual abuse material.”
- “This is vitally important.”
- “Criminalizing distribution of intimate images of a child should have a large amount of charges attached to them. Not only can and have lead to suicide in many cases, the distribution is also transfer to the hands of pedophiles for their own self gratification or to sell on the dark web. This is not only a crime, but also affects the mental state of the child/children and their loved ones after the fact....The shame that one feels goes beyond just a picture.”

NCMEC also asked consultants to share their thoughts regarding the opportunity that Articles 14-16 of the Convention presented to establish global standards relating to combatting online child sexual exploitation, and consultants shared the following:

- “Creating global standards for child sexual exploitation crimes is a crucial step towards ensuring the protection of children worldwide.”
- “I think it’s so important to have global standards because crimes that happen online have no borders. If we as a global community are going to truly combat this problem, we all need to be on the same page, and be partners in the fight to catch these criminals.”
- “There needs to be nowhere to hide for these predators. Nowhere to hide, and no leniency based on the location they are operating from....”
- “We have to help save as many children as we can from being victimized, and in order to do that we need to work together as a global community.”
- “I think global standards for child sexual exploitation crimes are incredibly important. While knowing that each UN member state will apply these standards differently, cohesive understanding and agreement will result in stronger response to these crimes in government which has a direct impact for law enforcement, NGOs, child welfare institutions, etc.
- “I think creating universal standards for child sexual exploitation crimes is essential; utilizing these same definitions throughout the world is important, particularly because the internet, which is the distribution and organizational site for most child sexual exploitation activity knows no bounds or borders.”
- “Predators who are targeting children are all over the globe and they are working together. They are organized and they are always one step ahead of law enforcement. The only way we will be able to combat such an organized criminal empire is to have governments all over the globe working together to protect children from them.”
- “The crisis of child exploitation demands a global response, especially since the Internet is a global entity. We need a unified response to the scourge of this devastating form of child abuse.”
- “Once we create global standards it will be easier for us all to find justice for our children. They need us all no matter the location to fight for them.”
- “I strongly believe that UNODC is very well positioned to create a global standard and send a message not just to criminals that the world is united against them but far more importantly UNODC is well positioned to send a message to victims that the country members of the U.N. stand together to give a voice to voiceless and to let victims know they matter and they are seen and they will be supported.”